

Walberg	Watt	Wilson (OH)
Walden (OR)	Weiner	Wilson (SC)
Walsh (NY)	Welch (VT)	Wittman (VA)
Walz (MN)	Weldon (FL)	Wolf
Wamp	Weller	Woolsey
Wasserman	Westmoreland	Wu
Schultz	Wexler	Yarmuth
Waters	Whitfield (KY)	Young (FL)
Watson	Wilson (NM)	

## NOT VOTING—30

Allen	Honda	Renzi
Bachus	Lowey	Reyes
Bishop (GA)	McCrery	Ruppersberger
Doolittle	Musgrave	Rush
Doyle	Napolitano	Ryan (OH)
Engel	Ortiz	Towns
Gilchrest	Pascarell	Turner
Gutierrez	Pickering	Udall (CO)
Higgins	Pryce (OH)	Waxman
Hinojosa	Rangel	Wynn

□ 1321

Mr. POMEROY changed his vote from "aye" to "no."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

### PROTECT AMERICA ACT OF 2007 EXTENSION

Mr. CONYERS. Mr. Speaker, pursuant to House Resolution 976, I call up the bill (H.R. 5349) to extend the Protect America Act of 2007 for 21 days, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5349

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. 21-DAY EXTENSION OF THE PROTECT AMERICA ACT OF 2007.

Section 6(c) of the Protect America Act of 2007 (Public Law 110-55; 121 Stat. 557; 50 U.S.C. 1803 note) is amended by striking "195 days" and inserting "216 days".

The SPEAKER pro tempore. Pursuant to House Resolution 976, debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence.

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes, and the gentleman from California (Mr. THOMPSON) and the gentleman from Michigan (Mr. HOEKSTRA) each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

#### GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5349.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Members of the House, the temporary FISA law we enacted in haste as a stopgap last August expires Saturday. We want to replace that law with a well-considered one which appropriately addresses both our security needs and our constitutional values.

The House passed a version of that well-considered law in my view in November, the RESTORE Act. We have been waiting for the Senate to pass its version so that we could compare it with ours and decide together on the best course of action. We have also been waiting on access to classified documents regarding what telecom companies may have done in recent years to assist our government with surveillance on United States citizens outside the bounds of law at that time.

The 15-day extension we passed 2 weeks ago was intended to give us time to consider the Senate bill, thought to be on the verge of passing, and to review the classified documents. Unfortunately, it has turned out not to be enough time.

The Judiciary Committee members, 38 in number, have not all seen the documents. We have only had clearance for 19 of those members to gain that access to the classified documents that we have been asking for for over 1 year. The review process is unavoidably somewhat cumbersome and inefficient. Even today, as I stated in my letter to the White House, we still do not have access to numerous critical legal documents. In addition, those documents that we have reviewed have left many of our questions unanswered and, as a matter of fact, raised a number of new ones.

Moreover, the Senate has just passed its version of a long-term surveillance law. It differs from the House version in ways that may have major ramifications on the freedoms that we cherish.

So we need a bit more time. The measure before us will give us 3 weeks, 21 days, not much time in the view of some, but enough, I believe, to permit us to reach an appropriate resolution on this matter of utmost importance. Therefore, your Committee on the Judiciary comes before you to urge support for this short-term extension.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly oppose H.R. 5349, which extends the Protect America Act for 21 days. Another extension is unacceptable and unnecessary.

Last August, Congress enacted the Protect America Act to close a dangerous loophole in our ability to collect foreign intelligence. The Democratic majority insisted on an arbitrary 6-month sunset. But instead of using that time wisely, they ignored the needs of our intelligence community and passed a partisan, unworkable bill, the RESTORE Act. Then, 2 weeks ago, the House Democratic majority insisted on another extension. Again

they squandered the last 2 weeks. Now House Democrats want more time. But their time is up.

We know from Admiral McConnell, Director of National Intelligence, that before Congress enacted the Protect America Act, the intelligence community was missing two-thirds of all overseas terrorist communications, endangering American lives.

Some in Congress are willing to let the Protect America Act expire because ongoing surveillance under the act can continue for up to a year. This might be acceptable if the terrorist threat also expired this weekend, but it doesn't. If the act expires, we will return to the status quo, unable to begin any new foreign intelligence surveillance without a court order, again threatening America's counterterrorism efforts.

Another extension represents a failure by the House Democratic majority to protect the American people. The Senate understands this. The intelligence community needs a long-term bill to fix gaps in our intelligence laws, not a 21-day extension.

The Senate bill addresses the concerns of our intelligence community and has strong bipartisan support. But House Democrats are at war with themselves and at odds with the American people. House Democrats disagree with the Senate Democrats and House Democrats disagree among themselves. One group wants to approve the bipartisan Senate bill and another opposes it.

Americans are tired of this kind of partisanship in Washington. Now we have partisanship within partisanship within the Democratic Party. House Democrats disagree among themselves, disagree with Democrats in the Senate, and oppose a bipartisan bill that passed yesterday with overwhelming support by a vote of 68-29.

The House Democratic leadership is like a clock that runs backwards. They keep going in counterclockwise circles to the left. Unfortunately, we can't turn the clock back on terrorists. We must act to gather intelligence on terrorists and prevent another attack.

Why do we keep delaying our ability to protect American lives? Another extension represents a failure to act, a failure to lead, and a failure to protect our country. It doesn't take long to do what is right. Let's stop the stalling and pass the bipartisan Senate bill.

I urge my colleagues to reject this extension and urge the Democratic leadership to allow the House to consider the bipartisan Senate bill.

Mr. Speaker, I reserve the balance of my time.

□ 1330

Mr. CONYERS. Mr. Speaker, I recognize the gentlewoman from California, JANE HARMAN, a long-time member of the Intelligence Committee who now on Homeland Security chairs the subcommittee that handles that same subject, for 4 minutes.

Ms. HARMAN. I thank the gentleman for yielding.

Mr. Speaker, as we discuss a short extension of the Protect America Act in order to hammer out a bicameral agreement with the Senate which just passed its bill last night, thousands of intelligence agents are working hard around the world in undisclosed locations, unaccompanied by their families, to prevent and disrupt dangerous threats against our country. Once again, let me say "thank you" to them, and let me say that every Member of this Chamber thanks them for their service and prays for their safe return.

This debate is not, as some on the other side want to characterize it, about Democrats wanting to coddle terrorists. We emphatically do not. We want to capture or kill them. It is beyond cynical to suggest otherwise. This debate is not about whether we want court orders for foreign-to-foreign communications between terrorists. We do not. Or whether we are opposed to responsible changes to FISA. We all support responsible changes to FISA.

This debate is about whether the careful framework in FISA, which has lasted three decades while letting us pursue terrorists while protecting constitutional freedoms, will survive.

The bill the Senate passed last yesterday, in my view, is unacceptable. I am mindful that there was a substantial bipartisan majority for it, but some in my party and some in the other party who voted for it tried mightily to improve it and lost. If we have 21 more days, we can consider some of their amendments here and, I would hope, pass them. If we cannot fix the Senate bill, I will oppose it if it comes up for a vote in the House.

Yes, I was one of a small group of Members briefed on the terrorist surveillance program between 2003 and 2006. But those briefings, until the program was publicly disclosed in late 2005, were about operational details only. I never learned that the administration was not following FISA, and I think that was wrong. And that is why for 3 years I have worked my heart out to fashion responsible bipartisan agreement on the need for the terrorist surveillance program to comply fully with FISA. This fall, I urged repeatedly for bipartisan negotiations which, sadly, never happened. It may now be too late, but I am "go" for one more try.

I say to the intelligence officers mentioned at the outset of my remarks, to my colleagues, and to the American people, we need to conduct surveillance of foreign terrorists, but we must do it within the rule of law. With a clear legal framework, they are empowered to do their job better and from that we will all benefit.

In August, the House was jammed by the Senate into passing ill-advised legislation. I opposed it, and said we did not want to watch the same movie again in 6 months. Well, here we are for the sequel. But this time we must ob-

ject, and I do object. We can and must do better.

Mr. HOEKSTRA. At this time I yield 3 minutes to my colleague from Kansas (Mr. TIAHRT), a member of the Intelligence Committee.

Mr. TIAHRT. I thank the gentleman from Michigan.

Mr. Speaker, I am opposed to this bill, and I am extremely concerned about our national security and deeply troubled that our intelligence community has been prevented from doing the job they need to do to protect Americans.

We do not need another delay of much needed FISA improvements. The Senate passed a bipartisan comprehensive FISA bill 68-29. That is the bill that we should be voting on today, and not this temporary extension. It is not the bill that I would have written, but it does give our intelligence community many important tools they need to protect our Nation. Instead of taking up a perfectly good, well-thought-out bill, we have another delay tactic by the House Democratic leadership that insists on catering to special interest groups like the trial lawyers and the hard left of the Democrat Party.

Mr. Speaker, we have had leaks in the way we collect information on individuals through electronic conversation; we have had leaks about how we collect e-mails on terrorist Web sites; we have had leaks that have caused our allies in Europe to no longer cooperate when it comes to tracking terrorist financing. Instead of prioritizing arguably the most important security issue, the majority party has delayed and failed to focus on how we can help the community in the 21st century against enemies who utilize the latest technology against our country.

As a member of the House Permanent Select Committee on Intelligence, I have been very disturbed this past year to see the anger against our President cloud the judgments of its members. In an effort to embarrass the President, they have weakened our intelligence gathering capabilities and caused long-term damage to the security of this Nation. We do not monitor phone conversations like we should, we do not monitor e-mails like we should, or finances like we should. And the enemy knows it. It is time for us to strengthen and not weaken the terrorist surveillance program. Enough is enough.

We all know that if we simply pass an extension for 21 days, it doesn't solve the problem. It is time for us to stand up and force the Democrat leadership of this House to do their job and bring the FISA modernization bill before this body, the one that was passed by the Senate by a wide margin, so that the intelligence community can have every tool at its disposal to protect the United States.

The Director of National Intelligence Mike McConnell, the man in charge of overseeing the intelligence community, has repeatedly told us of the urgency to modernize the FISA law. He

said, "We must urgently close the gap in our current ability to effectively collect foreign intelligence. The current FISA law does not allow us to be effective. Modernizing this law is essential for the intelligence community to be able to provide warning of threats to this country."

Mr. Speaker, what the Senate passed does exactly what Mr. McCONNELL talked about. We should bring that vote to the floor and vote it up or down.

Mr. THOMPSON of California. Mr. Speaker, I yield my time to the gentleman from Michigan (Mr. CONYERS) and ask unanimous consent that he may control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONYERS. I am pleased now, Mr. Speaker, to recognize the chairman of the Constitution Committee on the House Judiciary Committee, Mr. JERRY NADLER, for 4 minutes.

Mr. NADLER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 5349, a 21-day extension of the existing FISA Act to provide Congress the time to work out the differences between the two Houses on this very important matter. It is a question of our Nation's security and it is a question of our Nation's values. We should not be stampeded into action when there is no need. This administration has the ability to monitor terrorists, and extending current law for 21 days will not remove that ability.

What this debate is really about is whether national security wiretapping should be subject to judicial and congressional oversight, as the bill that we passed last November, the RESTORE Act, provides and as traditional American values insist on, or whether the administration, any administration, can be trusted to police itself, whether American citizens' liberty should be subject to the unreviewable discretion of the Executive as the Protect America Act and the Senate-passed bill provide.

Also at stake is the question of so-called telecom immunity. We know what they are asking. They are asking that the lawsuits against the telecommunications companies for participating in the warrantless surveillance program, allegedly in violation of the FISA law, be foreclosed.

Now there are only two possibilities. There are two narratives: Either the telecom companies nobly and patriotically assisted the administration against terrorism. That is one narrative. Or the telecom companies knowingly and criminally participated in a criminal conspiracy in violation of the law, aiding and abetting a lawless administration to violate Americans' liberties and privacy rights against the Constitution and against the FISA Act. I believe it is the second. But it's not up to me or up to anybody else here to

decide that. That's why we have courts. Courts determine questions of law and fact. People are out there who believe their rights were violated. They've brought a lawsuit. Let the lawsuits continue. Let the courts decide whether the telecom companies acted properly or acted in violation of the law. It is not the job of Congress to foreclose that judgment.

We have been told: If we pass telecom immunity and if we fail to control abuse of the state secrets privilege that has been abused by the administration to prevent the courts or the Congress from reviewing what they have done, there will be no mechanism in the courts or in the Congress to know, let alone to control, what the Executive is doing. The separation of powers established by the Constitution to protect our liberties will have been destroyed. That way lies the slow death of liberty. It must not be permitted.

We have been told by this administration, Trust us. I'm not in a very trusting mood these days, nor should we ever trust any administration without judicial and congressional oversight.

I remind everyone here that there is a bill that passed this House, the RE-STORE Act, last November. The Senate finally got around to passing a bill yesterday. Now we are being told we should have no time to work out the differences as we normally try to do, we must take the Senate bill sight unseen. Frankly, that's an insult to every Member of this House and to the prerogatives of this House. We passed a bill. They passed a bill. We should have 21 days to work out the differences. American liberty is depending on this, and the integrity of this House depends on this. I urge passage of this bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), former chairman of the Judiciary Committee.

Mr. SENSENBRENNER. I thank the gentleman from Texas. Mr. Speaker, I rise in opposition to this legislation.

Yesterday, the other body passed the FISA bill by a vote of 68-29. I don't understand why House Democrats refuse to bring this bill to the floor, sponsored by Senator ROCKEFELLER. It makes no sense to block its consideration for another 21 days. Why do we keep extending the terrorist loophole? It's imperative that the House pass the Senate bill today.

The Rules Committee last night rejected a Republican amendment to vote on the Senate-passed bill, and then the committee refused to allow the Senate-passed bill as a motion to recommit this afternoon. The majority knows that the American people support long-term legislation to keep our country safe. And I guarantee that the Senate bill would pass the House by a wide margin if the Democratic majority would let the House vote on it.

Instead of passing the Senate bill, we continue to waste time on legislation

of little consequence. The FISA bill expires on Friday. There is no more time to waste. We passed a temporary fix last summer and another extension earlier this year. There has been plenty of time to review this and to come up with a permanent fix. If we keep on passing these extensions, we're never going to get a permanent bill, and Americans are in jeopardy.

This majority's charade of passing short-term extensions has gone on long enough. President Bush will veto another extension, and the Democrats will have no one to blame but themselves. It's time for the majority to stop playing political games. We have had plenty of time to debate this issue. The Senate finally got it right, and it's time that the House does the same.

Our intelligence community needs the certainty of a long-term bill to protect the Nation. The Senate bill will continue to give our intelligence agencies the tools they need to keep us safe. I urge my colleagues to reject the 21-day extension up now and to pass the Senate's bipartisan FISA bill today.

Mr. CONYERS. Mr. Speaker, I am pleased now to recognize the gentlewoman from Texas, SHEILA JACKSON-LEE, a distinguished member of the Judiciary Committee and a subcommittee chairman on Homeland Security, for 3 minutes.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman of the Judiciary Committee, and I want to personally thank him for the extensive work we have done to secure America and as well to protect the civil liberties of all Americans.

I hold in my hand the Constitution of the United States embedded in this book. When you think of the term "embedded," you think of the concerns regarding the Iraq war. You think of the concerns of terrorism. You might even think of the concerns of embedded press who have been able to travel with our soldiers. But in this instance, I am saying that deeply embedded in the hearts of Americans is a concept of the Constitution that protects their civil liberties.

□ 1345

I think it is important to note that in fact a bill has been passed so many months ago. And I will not argue about the integrity of this place, for many have raised that question, that we should have the privilege of reviewing the legislation of the Senate, and that privilege is necessary.

But I think there is a larger argument, more expanded argument, and it must be clarified that we have not dillydallied. We have not delayed. We have, in fact, been meticulous in making sure that we have balanced a new FISA law, updating it, and also providing that protection, that firewall for Americans.

How many of you would have known that initially the administration came to us and suggested that while they are surveilling someone on foreign soil, if

it kicks back to an American, your grandmother, your aunt, your uncle, yourself, because it kicks back in a sense that we are talking to someone on foreign soil but you happen to be on the other side of the phone, that that was okay?

But I offered an amendment, and that amendment is in the bill that the House passed, that we cannot tolerate reverse targeting; you must get a warrant. There must be an intervention, and I am glad to say it is in the Senate bill.

Yet there is a major question that the Senate bill has not addressed, and it is the fact that many, many people's rights were violated in the course of the old law when the government went straight to the private sector and told them you have to do this and so many persons who were innocent were violated by surveillance. Now these companies, of which I have great respect, I believe they are part of the economic engine of this Nation, want us to interfere in the legal system, for many of these companies are now being sued retroactively, if you will, or being addressed for the grievance they did against an American citizen.

Who are we to stop the normal legal process? If one of these corporations has a defensible defense, the judges will rule for them. If they were following the law or they have a defense or were relying upon representations made by officials of the Federal Government, I can assure you that a court of law will give them their relief. Why are we interfering where citizens of the American society believe that this Constitution and their rights have been violated?

So to my friends who want to provide a scare tactic, let me say to you all this legislation does today is to ensure you will be safe by extending the existing law. Hopefully we put notice on corporations that they should not be violating the civil liberties of Americans, and clearly I will tell you, as a member of the Homeland Security Committee, that none of us stand in this well to jeopardize the safety and security of the American people. Let us dispense with that myth altogether.

What is important is that when we finally design a bill that is going to be entrenched in law, it must be in compliance with the Constitution that is embedded in this bill. It is not today. I ask my colleagues to enthusiastically vote for the extension because I believe in security and the rights of all Americans.

Mr. HOEKSTRA. I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to Mr. SAXTON.

Mr. SAXTON. Mr. Speaker, I rise in opposition to this legislation.

Mr. Speaker, some years ago as I was working to have a subcommittee on the Armed Services Committee established on terrorism, I was making the rounds among my party's leadership. I

made the case about why I thought we needed, and of course this was before 9/11, a subcommittee on terrorism. And I will never forget, one of my good friends told me that he thought, he said, JIM, he said, I think you and your friends see a terrorist behind every bush.

Unfortunately, Mr. Speaker, it seems to me that the Democratic majority leadership has adopted that same frame of reference. There is not a terrorist behind every bush, but they present a clear and present danger. We were told so as late as today by representatives of the Intelligence Committee.

Passing a 21-day extension simply continues the uncertainty in the intelligence community, the uncertainty in the telecommunications community, and uncertainty among the American public itself.

Just yesterday, as it has been said here several times, the Senate approved a comprehensive, long-term, bipartisan bill by a vote of 68-29 to close the terrorist loophole in our intelligence laws. Their bill represents a compromise between Congress and the administration. It rightly restores the original intent of the FISA by ensuring that intelligence officials can conduct surveillance on foreign targets without a court order while still protecting the civil liberties of the American people. It also grants liability protection to telecommunications companies that helped the government after September 11. Allowing these companies to be subjected to frivolous lawsuits threatens their future cooperation, which could cripple America's counterterrorism efforts.

The Senate bill is a responsible plan for protecting our Nation against terrorist threats. Many times the Senate sends bills over here and they are very shortly passed by the House. The House must act quickly on the Senate's bill, as well, and send it to the President so he can sign it. Failing to do so is effectively failing to protect our country and American citizens.

Therefore, I urge my colleagues to vote against H.R. 5349 and instead immediately pass the Senate's version of the bill so we can send this important bill to the President.

There may not be, Mr. Speaker, a terrorist behind every bush, but they, today, present a clear and present danger.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise disappointed that the President of the United States is attempting to short-circuit the legislative process and force Congress into an impulsive decision by vowing to veto this short-term extension before us now that would permit us to legislate responsibly.

It is beyond me how the Chief Executive of this country who truly wants an effective FISA reform, who truly cares about enacting sound legislation to protect Americans' lives and liberty,

who truly respects the prerogatives of Congress in shaping that legislation, could seriously threaten us with the prospect of vetoing this legislation.

It is especially disturbing to think that he might refuse to accept a brief extension of his own surveillance program in order to ramrod a decision his way on telecom immunity before we can know what it is we are giving immunity to.

I am also disappointed that some of my friends, Members of the minority, whom I have always considered to be responsible legislators, have spoken today in support of the President's attempt to once again bludgeon us to enact sweeping new wiretapping powers for the executive branch without giving the legislative branch the time to ensure that the way it is done holds true to our most cherished American values.

I hope that these few observations do not reflect widely shared sentiments in the minority, and I would hope that we would not lend credence to the President's veto threat. I don't think we should have to legislate under that kind of intimidation. It amounts to a demand that we abandon and abdicate our sworn constitutional duty.

I hope that we would all agree that we need to consider FISA reform responsibly with the care it deserves, with the importance that every American attaches to it, and to preserve the prerogatives of the House to have our voice heard.

This demand that we act irresponsibly reflects no credit upon the process. We should instead remind him that we are the legislative branch and remind him that he must show some patience and allow the Congress to responsibly work its will.

If the President were to veto this brief extension of his own surveillance program and if that in any way compromises our national security, no amount of political blustering would change the fact that it would be him who has put our Nation at risk by refusing to participate responsibly in the legislative process.

Now, I can't truly imagine that happening. I hope that with a strong bipartisan vote for this commonsense, temporary measure, we can convince our President to help us take this responsible step to ensure that Americans are appropriately protected against threats to their liberty as well as threats to their security. I hope that the result of this discussion will turn into a sound bipartisan vote in support of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California, Mr. LUNGREN, a member of both the Judiciary Committee and the Homeland Security Committee.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman from Michigan, the chairman of our

committee, for clarifying what this is all about. In his statement he just said that the President is trying to force us to accept this bill from the Senate so that there can be immunity granted to those communications companies that responded in the affirmative when asked to help this country. So that is what it is. That's what this vote is all about.

You can talk about a 21-day extension. You can talk about wanting to work a little harder. You can talk about this and that, but essentially that is what this vote is. It is the question of whether or not we believe that we ought to grant to those who responded in the affirmative when requested by their country to assist in the aftermath of 9/11, to allow us to collect that kind of intelligence which would prohibit or prevent another 9/11, whether or not we are going to slap them in the face and say because you answered yes, you have to, in the words of the chairman of the Constitutional Law Subcommittee when this was brought up in the committee, let them do it themselves, they have millions of dollars of high-priced attorneys. Now, that's the response we are to tell the American people if asked in the future: Will you help in gathering information so that we can prevent another attack? And, oh, by the way, make sure that you have millions of dollars worth of high-priced attorneys to respond to whatever lawsuit might be out there.

Now, the question here is whether or not the majority is going to allow the majority to do its will. Why do I say that? Twenty-one Members of the Democratic side have sent a letter on January 28 to the Speaker saying they support the Rockefeller-Bond bill. Twenty-one Members. Now, I was never great in math, but I do know that 21 Members on that side of the aisle, added to our Members on this side of the aisle, are a majority in the House of Representatives.

So the question is: Will you allow the House to work its will? Will you allow the bill from the Senate, which 21 Members on your side of the aisle have signed a letter in support of, come to the floor so we can find out whether or not the majority of this House will support it?

We were denied that in the Rules Committee. We were denied that on two specific votes in the Rules Committee, and now the only way we can allow that vote to come up is if we defeat this bill and force those on the majority side and the leadership to allow the majority to work its will.

□ 1400

Interestingly enough, the gentlelady from Texas who just spoke talked about how we ought to support this bill. I remember in August when she stood in that very well and tore up a piece of paper and said this is what we're doing; we're shredding the Constitution by voting for the bill that was then on the floor. And now we're

supposed to understand that the other side wants us to have 3 weeks more of a bill which shredded the Constitution.

Let's understand what we're really doing here. Let's vote this down so we can vote on the bill that the majority of the people in this House and the majority of Americans support.

Mr. CONYERS. Mr. Speaker, I would grant myself as much time as I may consume.

I appreciate the discussion that we're engaging in, but at this point I rise to make the case that this is not a debate exclusively about immunity. There are other key differences that we should and, I think, want to consider.

For example, the Senate bill, which we've just examined, does not contain sufficient provisions to guard against reverse targeting of United States citizens. I think that's an important matter that needs our continued consideration.

The Senate bill permits surveillance to commence without judicial approval of the essential procedures that will be used to ensure that there's no surveillance of United States persons without appropriate individualized warrants. I think that's pretty important.

The Senate bill further does not require the Inspector General or the Justice Department to investigate the President's warrantless surveillance program. The House bill requires this investigation.

And so I don't think we need to be stampeded into a vote by threats from the executive or from the mathematical perfection of the other side in suggesting where the majorities ally in this body. The 21 signers of the letter are entitled to get some answers to these questions just as everyone else that didn't sign the letter are.

Mr. Speaker, I will insert into the RECORD at this point from *cnn.com*, "Phone companies cut FBI wiretaps due to unpaid bills."

[From CNN.com, Feb. 13, 2008]

#### PHONE COMPANIES CUT FBI, WIRETAPS DUE TO UNPAID BILLS

WASHINGTON.—Telephone companies have cut off FBI wiretaps used to eavesdrop on suspected criminals because of the bureau's repeated failures to pay phone bills on time.

A Justice Department audit released Thursday blamed the lost connections on the FBI's lax oversight of money used in undercover investigations. Poor supervision of the program also allowed one agent to steal \$25,000, the audit said.

In at least one case, a wiretap used in a Foreign Intelligence Surveillance Act investigation "was halted due to untimely payment," the audit found. FISA wiretaps are used in the government's most sensitive and secretive criminal investigations, and allow eavesdropping on suspected terrorists or spies.

"We also found that late payments have resulted in telecommunications carriers actually disconnecting phone lines established to deliver surveillance results to the FBI, resulting in lost evidence," according to the audit by Inspector General Glenn A. Fine.

More than half of 990 bills to pay for telecommunication surveillance in five unidentified FBI field offices were not paid on time, the report shows. In one office alone, unpaid

costs for wiretaps from one phone company totaled \$66,000.

The FBI did not have an immediate comment.

The report released Thursday was a highly edited version of Fine's 87-page audit that the FBI deemed too sensitive to be viewed publicly. It focused on what the FBI admitted was an "antiquated" system to track money sent to its 56 field offices nationwide for undercover work. Generally, the money pays for rental cars, leases and surveillance, the audit noted.

It also found that some field offices paid for expenses on undercover cases that should have been financed by FBI headquarters. Out of 130 undercover payments examined, auditors found 14 cases of at least \$6,000 each where field offices dipped into their own budgets to pay for work that should have been picked up by headquarters.

The faulty bookkeeping was blamed, in large part, in the case of an FBI agent who pleaded guilty in June 2006 to stealing \$25,000 for her own use, the audit noted.

"As demonstrated by the FBI employee who stole funds intended to support undercover activities, procedural controls by themselves have not ensured proper tracking and use of confidential case funds," it concluded.

Fine's report offered 16 recommendations to improve the FBI's tracking and management of the funding system, including its telecommunication costs. The FBI has agreed to follow 11 of the suggestions but said that four "would be either unfeasible or too cost prohibitive." The recommendations were not specifically outlined in the edited version of the report.

A lot has been said about what some call patriotic phone companies. Are these the same companies that cut off the FBI FISA wiretaps because the FBI hadn't paid its phone bill? This is breaking news.

I ask that we examine this issue, and that we include it in the ones in the 21-day period. After all, we already have a FISA bill that will continue during the 21 days. Someone may have accidentally mischaracterized the fact that we will be without FISA protection if we don't act immediately. I don't think that's the case, and I think many of our colleagues on the floor at this time know that as well as I do.

Mr. Speaker, I reserve the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I would like to yield 3 minutes to my colleague from the State of Michigan (Mr. ROGERS), a member of the Intelligence Committee.

Mr. ROGERS of Michigan. Mr. Speaker, I have such great respect for my fellow colleague and Michigander, Mr. CONYERS, for his work and passionate belief and where he stands.

I do worry about where we're at. And I hear the gentleman talk about the fact that we just don't have time, and we need more time. You know, today we're going to spend hours and hours grilling a professional baseball player about he said/she said activities in professional baseball. We spent an entire day on this floor this year trying to figure out how we're going to designate scenic trails in New England; 162 bills commemorating someone or something, 162 on the floor this year; 62 bills naming post offices.

I think, if we put this in perspective, this isn't about needing more time. This isn't about that. We've obviously wasted a lot of time.

Our Constitution, as so many people point to, says some pretty clear things to me. It makes sure that you stand tall and you take an oath to defend against all enemies, foreign and domestic. It's one of the most important things that we do in this body.

If we can find time to put Roger Clemens in a chair and grill him for hours and make a media circus about professional baseball, you'd think we could spend a few minutes protecting the United States of America. Instead what we do is we kind of fool around and wring our hands and say, I'm for national security but kind of, not really. But, hey, did you see these jangly keys? Professional baseball could be in trouble. It maybe works for my kids when they were 3 and in trouble, but it doesn't work for the American people, and it certainly doesn't work to keep us safe.

This isn't about the Constitution. Many of your Members came down here and said, we think this is unconstitutional, but give us 3 more weeks of unconstitutionality in the United States. If I believed that, as a former FBI agent, I wouldn't vote for it. It's wrong.

This is about white hats and black hats. It's about good guys and bad guys. It's about Good Samaritans. You know, there are ads on TV today where they go into high crime neighborhoods and say, It's okay for you to tell on criminal behavior. Please call the police. Please call the FBI. Please make a difference in your community.

Think of the confusing message we are sending today because we're hooked up on the size of the company. So if I go in as an FBI agent to find the address that a pizza delivery company has for a fugitive, should we go after them, too? Should we go after that pizza delivery guy for, out of the goodness of his heart, telling us where there is a fugitive who may have committed murder or have committed child pornography or been selling drugs and is in violation of the safety and security of his neighborhood, his community? No, of course not. And we shouldn't punish people who say, listen, I want to help the United States catch terrorists and murderers, and if you ask me and I'm in lawful possession of it, I'll share it with you. We do it in banks. We do it in small businesses. We knock on neighbors' doors every day in this country and say, Help us help protect your neighborhood, your kids and your family. Will you tell us what you saw? Will you tell us what you know? Will you tell us where this information leads us to? It happens every day.

This is about black hats and white hats, good guys and bad guys. Let's make sure we stand up today for every courageous American who stands up for the safety of the community of this United States. I don't care how big or



how small they are, we ought to stand with them and not make them the enemy.

Mr. CONYERS. Mr. Speaker, I reserve my time at this point.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT), a member of the Judiciary Committee.

Mr. GOHMERT. Mr. Speaker, we've heard a number of things, what this is or isn't about. We're told it's not about the protections for the country, but it is about that. And I have great respect and admiration for our chairman, Mr. CONYERS.

But we were told, also, well, gee, the reason we need more time is the White House has delayed giving us documents. But if you really want to get to the bottom of this, you go back to August 4 when we took a vote on FISA being extended for a number of months. There was no immunity in there. There was no issue about is the President going to turn over documents. Forty-one Democrats voted for it, nine didn't vote, and all the rest voted against it. They were against the protections for this country and FISA.

Now, we need to try to eliminate risk to the country, not political risk to a party. And I understand sometimes you have Members that see the dangers to America, gee, that exposes the country to great risk and if we don't do something and something terrible happens, then we've exposed our party to terrible political risk. This shouldn't be about political risk. We need to do what's right for the country.

The chairman had said there are other key differences and there are. But those are important to note as well.

Our friends across the aisle somehow think it shreds the Constitution if we tap a terrorist in a foreign country and he calls an American. I've said it before and I'll say it again. The solution to that is not that we not tap into that known terrorist in a foreign country; it's that the friends of those concerned about this in America, tell your friends to have their terrorist buddies not call them at home. That's real easy. Then they don't have to worry about this bill.

But if terrorists that are known terrorists in foreign countries call them in this country, then they ought to be at risk for having them tapped. Once we know that there's somebody here, then they go get the warrant and that addresses it. But you cannot restrict it otherwise without doing great harm to our protection in America.

Mr. CONYERS. Mr. Speaker, I continue the reservation of time.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. PENCE), a member of the Judiciary Committee.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise in opposition to H.R. 5349, a bill to extend

the Protect America Act of 2007 for 21 days.

Now it's hard for me to come to this floor and oppose an extension of a bill that I support, and supported in a bipartisan manner, Mr. Speaker.

It was this summer, I believe last August, that Republicans and Democrats came together on the Judiciary Committee and worked out a solution for an extension that came to be known as the Protect America Act. And we've heard in the course of this debate, eloquently stated on both sides, what the issues are here. We have antiquated foreign intelligence surveillance laws. The technology that has exploded across the globe in the last 25 years has occurred without a significant updating of those laws that govern the means and the manner and the technology whereby we can collect intelligence. And so we find ourselves, essentially, as the hub of communications in the world in the United States of America. You've heard the percentages, the enormous amount of communications that pass through the United States of America. And yet we have this massive loophole in our intelligence surveillance laws that does not permit us to listen to a terrorist in one foreign country talking to a terrorist in another foreign country.

When we worked out the compromise this summer, it was built, Mr. Speaker, I believe, on an understanding between Republicans and Democrats that that ought not to be, we ought to solve that problem in an equitable and bipartisan way. And I was pleased to support that extension and legislation for a period of 6 months.

But what I struggle with today is now, in the aftermath of that, the contrast between the work in the House and the Senate is rather startling. Yesterday, the Senate approved a bipartisan bill supported by nearly 70 percent of the Senate to close the terrorist loophole in our intelligence laws. It represented a strong bipartisan compromise between Congress and the administration. And yet here in the House of Representatives we passed a 6-month extension. A few weeks ago we passed a 15-day extension. Now I believe we're passing a 21-day extension. And yet the American people, I believe, know in their heart of hearts our enemy does not think in the short term and, therefore, our solutions must occur in the long term. And when it comes to the ability of our intelligence community during this administration or whomever will be the next administration charged with protecting this country, I believe it is imperative that we call the question.

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I believe it is imperative that we rise today, respectfully to my colleagues on the other side, most especially the chairman whom I esteem, and say enough is enough. We need to modernize our foreign intelligence surveillance laws today. We need to find a bi-

partisan compromise as we did last summer. We need to find a bipartisan compromise as the United States Senate did yesterday.

And I say again with a heavy heart, our enemy does not conspire to harm us in the short term. Our enemy conspires to harm us in the long term: to harm our people, to harm our families, to harm our children and our interests around the globe. We must, in this Congress, find a way beyond politics, as we did last summer, as the Senate did yesterday, to repair those holes in our foreign intelligence surveillance laws and give our intelligence community the legal authority and tools that they will need to protect us in the long term.

I urge my colleagues to reject the bill to extend the Protect America Act for 21 days and call the question on this floor. We need a long-term solution to what ails our intelligence laws.

Mr. SMITH of Texas. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. JACKSON of Illinois). The gentleman from Texas (Mr. SMITH) has 4½ minutes. The gentleman from Michigan (Mr. CONYERS) has 7 minutes. The gentleman from Michigan (Mr. HOEKSTRA) has 2 minutes.

Mr. SMITH of Texas. Mr. Speaker, I will reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I reserve.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 976, further proceedings on the bill are postponed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### HONORING AFRICAN AMERICAN INVENTORS

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 966) honoring African American inventors, past and present, for their leadership, courage, and significant contributions to our national competitiveness.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 966

Whereas African-American and other minority scientists, technologists, engineers, and mathematicians have made significant achievements in our national research enterprise and inspired future generations;

Whereas the National Society of Black Engineers ("NSBE") lifts up African-American